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TO: Representative Ron Ehli, Chair; Senator Mary Caferro, Vice Chair; Members and Staff of Children, Families, Health & Human Services Interim Committee

FROM: Rep. Mary Ann Dunwell, HD 84, member of the MDC Transition Planning Advisory Council

RE: Montana Developmental Center – 3 page memo

DATE: January 11, 2016

Hello and happy New Year, Chairman Ehli, Vice-Chair Caferro, members of the committee and staff. I'm Representative Mary Ann Dunwell from House District 84, Helena and East Helena. I serve on the Montana Developmental Center Transition Planning Advisory Council.

Thank you for the opportunity to speak. I'm here this afternoon because I've got concerns about how the council is moving forward. Since you're the interim committee with oversight of the implementation of SB 411, I appreciate you hearing my concerns.

Under SB 411, the transition council is to assist Montana DPHHS with developing a plan for **closure of MDC** and to move residents into community based services. **I don't feel the committee is following the law for closure when it votes to keep some of MDC open** – an intermediate care facility, ICF, and the assessment and stability unit, or ASU. Legislative Services Chief Legal Counsel was not able to give me a legal opinion because the transition committee is an executive branch committee. **You're a legislative committee. Will you please ask for this legal opinion?**

Transparency and accountability

I'm concerned about the **apparent lack of transparency and accountability to the public**. The public is very interested in this issue. The *Helena Independent Record* ranked MDC one of the top 10 stories of 2015. Yet, we're making it incredibly difficult for the public to be informed and engage in the council's activities. We hold the meetings in Boulder without minutes. MT Code Annotated 2-3-212 requires minutes of state public meetings to be available for inspection by the public. This is even if the meeting is audio recorded. It's wonderful that the meetings are

video recorded, but **they are not broadcast in real time. Even when the video is posted later, hard-working Montanans just don't have time to wade through hours of videotape.**

I honestly believe that the MDC council members share a common purpose, which is to work towards the most appropriate and sustainable developmental disabilities system. To me, this means we need to improve the system for generations to come, not just move out the 50 clients left at MDC and call it good. That system improvement may include some kind of place like ASU at MDC for individuals who just cannot be a good fit in a community. But, the council hasn't even **researched the possibility of community crisis facilities or mobile crisis response teams that work extremely well in other states.**

Vote to keep ASU open

We were **railroaded into the vote at our December 3rd meeting to keep ASU open.** I did not feel I had complete information to make a good, information-based decision. So I voted no and voiced my reason during the vote discussion. This happened early on in the morning. I even made a motion to at least wait until the end of the day to take the vote. It didn't happen.

My fear is the vote at this time to keep ASU open just rubber stamped business-as-usual, we've-always-done-it-this-way thinking. The vote to keep ASU open included a bricks and mortar, window dressing remodel of the ASU facility, but that's it.

The vote was premature. Under the bill, the council has another year to transition most MDC residents to community facilities and until June 30, 2017, to close MDC. There's another legislative session in there too where we can make policy adjustments for long term system improvement.

A few months ago, the council also voted to keep some sort of intermediate care facility. I reluctantly voted yes. I was concerned that this would take the wind out of our sails to make sustainable system improvement. But my fellow committee members promised me otherwise. So when the committee voted to keep ASU open too, I felt betrayed. More important, **we betrayed the bill.**

During the 2015 Session, **the bill passed by a healthy margin, 60 to 40 in the House and 44 to 6 in the Senate. And Governor Bullock signed the bill to close MDC. So, what's going on?**

Decent, living wage & unsafe

We may have given up a golden opportunity to negotiate for decent, livable pay for MDC employees, for better staffing of clients, for state of the art workforce development to enhance de-escalation skills for workers, and for an overall improved environment of health and safety for clients and care givers. State employees at MDC earn \$11.18 an hour, maybe \$11.92 after 1 ½ years. That's **way too low for what they do.** DPHHS has one of the **highest worker comp rates at 14% because of MDC and Warm Springs. State law guarantees workers a safe**

workplace. It's the Montana Safety Culture Act and since we're not protecting worker safety, I don't believe we're following the law.

The council recently received information from Disability Rights Montana about 18 incidents of physical aggression that apparently happened in ASU with the **same client on client** within a recent two-month period. This client allegedly strikes staff more. We also received DRM information of three abuse cases in an MDC intermediate care facility.

Community based facilities

Instead of figuring out how to keep MDC open, we need to **fix and improve community care and community-based facilities**. We need to ensure good oversight of community services. And we need to pay direct care workers in the community a living wage. I encourage **organizing these workers** under the **protections of a strong union**.

These direct care workers are the dedicated souls who care for our loved ones and fellow Montanans with different abilities and challenges that we as families cannot handle. Yet, **they earn a little more than \$9 an hour**. That's shameful. One provider in Missoula has 37 vacancies because of low pay in a high stress job. But, **community providers cannot pay them more because of an antiquated, unworkable and inflexible waiver system**. Fixing the waiver will let providers pay direct care workers a decent, living wage. **We need to be working on the big 0208 waiver that serves 2700 clients**, not just the smaller waiver for MDC's 50 clients. Again, we need to look long term.

As we move forward, I would ask for your help to make sure the work of the MDC transition council is done in the open and is accountable to the intent of Senate Bill 411.

Thank you for investing your time to hear me out.

Regards,



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Member, Montana Developmental Center Transition Planning Advisory Council